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PLEWS & SHADLEY

ATTORNEYS AT LAW

GEORGE M. PLEWS
SUE A. SHADLEY
TIMOTHY J. PARIS*
DONN H. WRAY**
PETER M. RACHER
KARON A. HATLELI***
JEFFREY D. CLAFIN

OF COUNSEL

CRAIG A. WOOD *†
CHRISTINE C. H. PLEWS
WILLIAM E. ALLEN

1346 NORTH DELAWARE STREET
INDIANAPOLIS, INDIANA 46202-2413
TELEPHONE (317) 637-0700
TELEFAX (317) 637-0710

* ADMITTED INDIANA, CALIFORNIA AND ARIZONA
** ADMITTED INDIANA AND ILLINOIS
*** ADMITTED INDIANA AND ARIZONA
† ADMITTED INDIANA AND CALIFORNIA
‡ ADMITTED U.S. PATENT AND
TRADEMARK OFFICE

VIA TELECOPY

June 13, 1991

Mr. Peter Felitti
U.S. Environmental Protection Agency
Region V
230 South Dearborn Street
Chicago, Illinois 60604

Re: Great Lakes Asphalt Site

Dear Peter:

Following up on our conversation, I am writing to summarize Jeffboat's position.

No facts warrant the conclusion that Jeffboat was a de maximus contributor of waste to GLA. In fact, the facts show just the opposite, that no Jeffboat materials were at GLA at the time the vandalism occurred in 1989. The operators of Enviro-Chem will testify that because Jeffboat's materials were shipped in bulk, not in drums, the material was not amenable to storage and had to be processed quickly after arrival. There is virtually no possibility that Jeffboat's shipments (the last of which arrived at Enviro-Chem in 1979) were on site in 1982, the year the GLA lease was negotiated. It is extremely unfair, as well as legally unsupportable, to single out Jeffboat for exposure to the risk, however remote, of future environmental liability at the site. Jeffboat should be permitted to settle with EPA pursuant to Section 122(g), along with the other alleged PRPs.

For the same reason, Jeffboat should not be the only PRP exposed to the risk of a future action to collect natural resources damages. There simply is no basis for distinguishing Jeffboat from any other company (except possibly to extend to Jeffboat more favorable settlement treatment in light of the facts above).

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EPA, as you know, does have discretion to settle with PRPs without a reopener where EPA is satisfied that the "terms, conditions or requirements of the settlement agreement containing the covenant not to sue are sufficient to provide all reasonable assurances that public health and the environment will be protected from any future releases at or from the facility." 42 U.S.C. § 9622(f)(6). This case, in which the site cleanup is completed, certainly seems to come within the ambit of the statute. Also, EPA has recourse against the several hundred 1983 Enviro-Chem Settlers, who represent approximately 80 percent of the volume at Enviro-Chem and who thus far apparently have been unwilling to undertake any serious negotiations with you.

If EPA concludes that it must have a reopener, then it makes more sense and certainly would be more equitable to assign the risk of future liability to PRPs whose waste was shipped to Enviro-Chem in drums, or whose waste was received at Enviro-Chem during the months leading up to and during the 1982 GLA lease term, or who for other reasons EPA can say with some level of confidence may actually have contributed to the materials spilled in 1989.

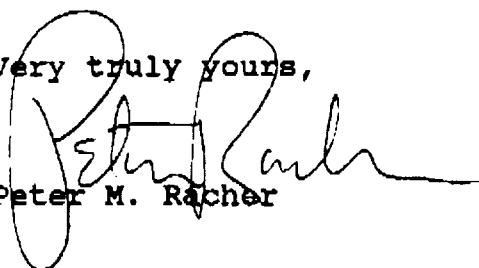
If EPA insists on discriminating against Jeffboat, the result will be to penalize the one company responsible for moving the GLA case forward. That hardly seems consistent with EPA policy. In the Enviro-Chem negotiations, EPA gave less favorable treatment to Jeffboat and the other Non-Settlor PRPs in part because of the perception that the Non-Settlers had been slow to arrive at the bargaining table. Notwithstanding the unevenhanded treatment, I believe that the regional counsel involved in negotiating the Non-Settlor consent decree feel that Jeffboat's role was constructive and in fact crucial in accomplishing the settlement. The lesson from Enviro-Chem should be that companies who facilitate solutions and negotiate in good faith will be rewarded, not penalized.

In sum, neither the government's interests nor Jeffboat nor any of the Non-Settlor PRPs' are served by abandoning the effort to arrive at a reasonable settlement (a settlement which, incidentally, appears to have the potential of raising more money for the government than any other avenue). A reasonable settlement, however, must not unfairly discriminate against Jeffboat. We will be happy to discuss with other members of the Non-Settlor Steering Committee whether or not the Non-Settlor PRPs should be asked to contribute to payment of natural resources damages. Meanwhile, I understand that you will investigate the possibility of amending the consent decree to provide Jeffboat with a §122(g) settlement and in other respects to treat Jeffboat the same as the other PRPs.

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I look forward to hearing from you soon so that we can swiftly resolve the GLA negotiations and disseminate a mutually agreeable consent decree.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter Racher", written over the typed name.

Peter M. Racher

PMR/rlg